

OUTSTANDING QUESTIONS AND ANSWERS REGARDING PUBLIC OUTREACH SEMINARS

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Eligibility and Registration

Can any member of the public use CM/ECF to file documents with the Court?

No. Currently access to CM/ECF for filing will be available only to users authorized by the court. Most courts allow access to attorneys admitted to practice in the Court and currently in good standing, an attorney representing the United States Government, and bankruptcy trustees to register for filing logins and passwords. Some courts are also providing limited access to claim filers.

Service

Will affidavits of service be required to include both the e-mail address and the post office address?

It is an assumption that the affidavits of service will require the serving party to note only the address to which the document was served - whether at an e-mail address or at a mailing address. This is a good question and we will keep you posted as CM/ECF is developed in North Dakota.

How will we know which parties can receive notice through ECF?

ECF offers a report that assists a filer in determining who has registered to receive electronic service in a case. As a time-savings method, a filer can highlight, copy and paste the names onto their document.

Right now, in order to serve someone electronically the rules require that the serving party be able to obtain a return receipt from the party being served. How will this rule requirement fit into the electronic service option touted in electronic case filing?

Whether or not the receipt of this notice constitutes “service” depends on the provisions of the local rules of procedure. Most courts provide that sending of an electronic notice of filing

constitutes service.

Software

Does the various petition software interface with ECF?

The U.S. Bankruptcy Court does not recommend, endorse or provide support for any bankruptcy preparation software. Indicated on the software listing “Works with Case Upload” represents that the manufacturer claims that this software works with Case Upload, and that no information to the contrary is available to the Court. Contact your vendor for specific information.

Will there be an interface or information sharing between state courts and federal courts?

At this time the software does not support an interface with the state courts, however the information is available to any party with a PACER login and password.

Is there a charge to view the docket sheet?

Yes, there is a charge. The docket report program allows the user to request the entire docket report or limit it by date range or document number. These options enable the report to be run faster and relieves the public users from being billed for extraneous information.

When using CM/ECF will the software allow attorneys to download an entire case file, rather than document by document?

This feature is an enhancement to the software. After implementation we can pass this information to the Administrative Office of the U.S. Courts to determine feasibility of the request.

Passwords

Will each attorney have a password and login or can a password/login be obtained on behalf of the entire firm?

Authentication is currently completed at login. Each user is required to identify himself or herself by presenting a valid combination of user name and password. Upon doing so, access to the site is granted. Consequently, each attorney will be required to have a password and login.

Will there be separate passwords and logins among the various federal courts?

PACER logins work at all courts running nationally supported PACER products. There is no registration fee for PACER. The Judicial Conference of the United States has established a fee to be collected for access to PACER. All registered agencies or individuals will be charged a user fee. Access to web based PACER systems will generate a \$.07 per page charge.

Can the general public view documents in a CM/ECF case?

Access to view documents in CM/ECF is available to anyone with a PACER login and password. PACER offers convenient electronic access to case file documents, listing of all case parties, reports of case related information, chronologies of events entered in the case record, claim registries, listing of new cases, judgments or case status, and a calendar of events.

Parties entitled to documents as part of the legal process receive a free electronic copy, although they will be charged for replacement copies, whether in paper or electronic form.

When you are in the system, are you in PACER?

Whenever a party is looking at a court record in CM/ECF Pacer.Net is used. There are two different passwords used, one for case look-up and one for filing documents.

Training

If a filer has received CM/ECF training in another district, will a cross-certification program be available?

We anticipate accepting cross-certifications from other districts. A registration form will be available stating the requirements in order to receive a login and password. Depending on the situation, it is common practice among the courts that have implemented CM/ECF to implement procedures wherein the filer may perform some “test” filings in the training database before the cross-certification is accepted.

Signatures

How does the court record and preserve the debtor’s original signature? Who will maintain this document? How long must this be saved?

The procedures for preserving the debtor’s original signatures vary among the courts. In some courts, the U.S. Attorney has requested that the debtor’s originally signed declaration concerning the petition and schedules be stored in the clerk’s office. Other courts have procedures requiring the attorney retain paper copies of critical documents, such as affidavits or petitions containing the Debtor’s original signature for a set period of time (e.g., 3-5 years). Other courts maintain that the originals of documents requiring signatures must be maintained until the time allowed for appeal has elapsed. In most cases, signatures on electronically submitted documents will be indicated with “/s/” above the party’s typed name. These are all options that will be considered as part of our implementation.

The U.S. Bankruptcy Court in Montana requires reaffirmation agreements and stipulations to be filed electronically showing copies of the debtors' and creditors' original signatures and the /s/ is not sufficient. Will North Dakota follow that procedure?

This will be determined as part of the implementation process, but at this time it is our belief that these documents would not be treated any differently than other documents filed. We will report on this as CM/ECF is developed in North Dakota.

Filing Documents

Will the petition and schedules be filed as one document?

Yes, if filed at the same time it is anticipated the petition and schedules will be filed as one document. All documents with exhibits and attachments capable of electronic imaging and filing will be electronically filed together under one entry number.

How will attachments be submitted?

Attorneys may submit attachments that are extremely large (more than 50 pages) that will take a long time to download, even in text format. It is suggested that each court establish filing procedures that encourage attorneys for file text documents, whenever possible, to break lengthy documents into logical pieces that can be uploaded and downloaded separately, and to label each piece with a descriptive title. This will not only reduce the filing time but will also allow users who wish to access the document(s) to download only those portions needed, thus saving time.

How are large attachments to claims managed?

The processing of claims with attachments varies among the live CM/ECF courts. The practices include scanning all claim documents, scanning a set number of pages, scanning a one-page summary, breaking the attachment into manageable smaller files and scanning them separately. Much will depend upon our current practice, which is to not require the attachments, as the trustee will always contact the claimant. We have always accepted attachments to claims unless they are too voluminous to image. This question will be considered and reported upon further as our implementation strategy is developed.

How will documents be handled that require a notarized signature?

The Bankruptcy Rules and Procedure do not require a notarized signature on documents. If there is a notarized signature as part of an attachment, that document will be handled the same as any attachment.

Privacy Policy

Will names and ages be eliminated completely on the schedules, or should we include the first name?

Schedule I (Current Income of Individual Debtor(s)) is being amended to eliminate the requirement that the debtor disclose the names of minors and other dependents. The age requirement remains on the form.

Under the privacy guidelines, how will creditors be aware of the particular account numbers? This is especially important if the debtor has more than one account with the same lender or the same credit card.

The instructions to Schedules D, E, and F will be amended to inform the debtor that account numbers are useful but not required.